

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Leaf River Telephone Company and L.R. Communications, Inc.	:	
	:	
	:	03-0742
Petition for approval of a stock redemption pursuant to Section 7-204 of the Public Utilities Act.	:	
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ORDER

By the Commission:

On November 26, 2003, Leaf River Telephone Company ("LRTC" or "Petitioner") and L.R. Communications filed a verified Petition requesting approval of the reorganization of LRTC pursuant to 220 ILCS 5/7-204 of the Public Utilities Act ("Act") and for all other appropriate relief.

Pursuant to proper notice, this matter came on for hearing before a duly authorized Administrative Law Judge of the Commission at its offices in Chicago, Illinois on January 21, 2004 and February 18, 2004. Appearances were entered by counsel on behalf of the Petitioner and by counsel from the Office of General Counsel on behalf of the Staff of the Illinois Commerce Commission ("Staff"). Maxine Palmer, Secretary-Treasurer of LRTC, testified and presented evidence in support of the Petition. Staff presented the affidavits of Sheena Kight, Financial Analyst in the Financial Analysis Division, who concluded that the proposed reorganization will not significantly impair the Petitioner's ability to raise necessary capital on reasonable terms or to maintain a reasonable capital structure; and Karen Chang, Economic Analyst in Telecommunications Division of the Commission, who concluded that Petitioner's ability to provide quality telecommunications services will not be altered or have any potential adverse effects as a result of the reorganization. Staff had no objection to the Petition and the relief sought therein. At the conclusion of the hearing on February 18, 2004, the record was marked "Heard and Taken."

LRTC is a local exchange carrier and a telecommunications carrier subject to this Commission's regulation. Of the 350 issued and outstanding shares of LRTC, 118 shares are in treasury stock, 89 shares are owned by Katherine Barney, and 116 shares are owned by Maxine Palmer. Certain other shareholders own the remaining 32 shares.

Katherine Barney, Maxine Palmer, and Max Robinson entered into a stockholders' agreement with LRTC pursuant to which LRTC agreed to purchase each

shareholder's common stock whenever a shareholder reached age 75. In 1995, this Commission approved LRTC's purchase of 116 shares from Max Robinson in Docket 95-0086. Katherine Barney reached age 75 on March 3, 2003. The stockholders' agreement between the parties was amended on March 1, 2003 to allow Katherine Barney to retain 26 shares, but LRTC agreed to purchase her remaining 58 shares with a valuation date of March 3, 2003.

Ms. Palmer testified that the effect of the proposed transaction from a Leaf River telephone customer's viewpoint will be transparent. LRTC's business office will be retained as well as the non-stockholder employees who the customers are used to seeing, such as plant and office personnel. Katherine Barney will remain as president and be in charge of the day-to-day activities of LRTC. Ms. Palmer testified that LRTC will continue to buy goods and services from local businesses as it has done in the past.

Once the sale of the 58 shares is consummated, Ms. Palmer's voting percentage will increase from 50% to 66 2/3%. Therefore, the proposed transaction will result in a change in control of a majority of the voting capital stock of a telecommunications carrier within the meaning of section 7-204 of the Act. LRTC is a non-competitive local exchange carrier with fewer than 35,000 access lines. L.R. Communications is a wholly-owned subsidiary of LRTC, and it holds a certificate of service authority as an interexchange telecommunications carrier. According to the terms of the amended agreement, LRTC will purchase Katherine Barney's 58 shares for \$545,000, and the redemption will be financed by a 10% down payment, with the balance paid over 20 years with the interest adjusted annually. LRTC will enter into a promissory note with Katherine Barney according to these terms.

LRTC has been in the family for many years. Ms. Palmer's grandfather acquired the company in 1954, and he had 350 shares. Subsequently, he gave 118 shares to Max Robinson, another 116 shares to Katherine Barney, and the remaining 116 shares to Maxine Palmer.

Ms. Palmer testified that the stock redemption at issue will not adversely affect LRTC's ability to perform its duties under the Act, because the same officers and directors that have been managing the company's business will continue to do so. Katherine Barney has been president of the company since 1984, and she has been running the day-to-day operations of the company since 1979. She will continue as president and continue to manage the day-to-day operations of the company. Ms. Palmer testified that the proposed stock redemption will not diminish the company's ability to provide adequate, reliable, efficient, safe, and least costly telephone service to the public. The company will remain subject to the Commission's jurisdiction and will abide by all applicable laws, regulations, rules, decisions and policies governing telecommunications carriers.

Ms. Palmer testified to each of the following: The proposed stock redemption will not result in the unjustified subsidization of non-utility activities. The costs and facilities of telephone operations will be fairly and reasonably allocated between utility and non-

utility activities after the stock redemption. The stock redemption will not significantly impair LRTC's ability to raise necessary capital on reasonable terms or to maintain a reasonable capital structure. LRTC will remain subject to all applicable laws, regulations, rules, decisions and policies governing the regulation of Illinois public utilities. The proposed stock redemption will not be likely to have a significant adverse impact on competition in any markets where the Commission has jurisdiction, and the proposed stock redemption will not likely result in any rate increase.

The Commission, having considered the entire record herein and being fully advised in the premises, is of the opinion and finds that:

- (1) LRTC is an Illinois corporation and is a telecommunications carrier as defined in Section 13-202 of the Act, which is providing telecommunications services as defined in Section 13-203 of the Act;
- (2) L.R. Communications is a wholly owned subsidiary of LRTC and is licensed as an interexchange telecommunications carrier;
- (3) the Commission has jurisdiction over the parties hereto and the subject matter hereof;
- (4) the recitals of facts set forth in the prefatory portion of this order are supported by the evidence of record and are hereby adopted as findings of fact;
- (5) the proposed reorganization will not adversely affect LRTC's ability to perform its duties under the Act and the proposed reorganization meets the criteria as set forth in Section 7-204 of the Act in that:
 - (a) the proposed reorganization will not diminish LRTC's ability to provide adequate, reliable, efficient, safe and least-costly public utility service;
 - (b) the proposed reorganization will not result in the unjustified subsidization of non-utility activities by LRTC or its customers;
 - (c) costs and facilities are fairly and reasonably allocated between utility and non-utility activities in such a manner that the Commission may identify those costs and facilities which are properly included by the utility for ratemaking purposes;
 - (d) the proposed reorganization will not significantly impair LRTC's ability to raise the necessary capital on reasonable terms or to maintain a reasonable capital structure; and

- (e) LRTC will remain subject to all applicable laws, regulations, rules, decisions and policies governing the regulation of Illinois public utilities.
- (6) the proposed transfer of control of LRTC is reasonable and the relief requested under Section 7-203 of the Act should be granted as hereinafter set forth;
- (7) the Petitioner should be directed to file with the Office of the Chief Clerk a notice informing the Commission of the date of closing of the stock sale within thirty (30) days of the date of closing;
- (8) the Petition may reasonably be granted and the public will be inconvenienced thereby.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that consent and approval are hereby granted to LRTC to purchase 58 shares of stock of LRTC from Katherine Barney consistent with the terms of Petitioner's Exhibits 1 and 2, and that said transaction will result in the transfer of control of LRTC to Maxine Palmer.

IT IS FURTHER ORDERED that Petitioner shall file a notice with the office of the Chief Clerk within thirty (30) days of the stock purchase, notifying the Commission of the date of closing.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 3rd day of March, 2004.

(SIGNED) EDWARD C. HURLEY

Chairman